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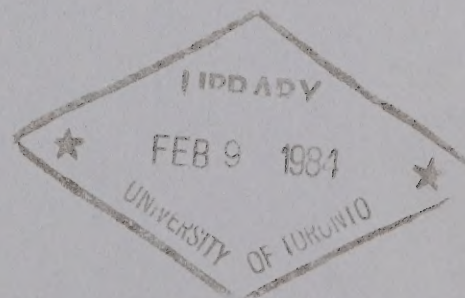
NATIONAL ENERGY BOARD REASONS FOR DECISION

In the Matter of the Application Pursuant to
Section 17 of the National Energy Board Act

of

GAZ INTER-CITÉ QUÉBEC INC.

January 1984



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(i)

RECITAL AND APPEARANCES

IN THE MATTER OF the National Energy Board Act and the Regulations made thereunder;

IN THE MATTER OF Section 20(3) of the National Energy Board Act; and

IN THE MATTER OF an application by Gaz Inter-Cité Québec Inc. pursuant to Section 17 of the National Energy Board Act filed with the Board under File No. 1555-T1-111.

HEARD at Ottawa, Ontario on December 12, 13, 14, 15 and 16, 1983

BEFORE:

J. Farmer	Presiding Member
J.R. Jenkins	Member
J.R. Hardie	Member

APPEARANCES:

H. Soloway, Q.C.	Trans Québec & Maritimes Pipeline Inc.
Y. Brisson	Gaz Inter-Cité Québec Inc.
J.M. Murray	TransCanada PipeLines Limited
R. Meunier	Gaz Métropolitain, inc.
P.F. Scully	Northern and Central Gas Corporation Limited
J. Hopwood, Q.C.	NOVA, An Alberta Corporation
J.H. Farrell	The Consumers' Gas Company Ltd.
J. Giroux	Procureur général du Québec
S.K. Fraser	National Energy Board

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- III GICQ and GC-65 Facilities in the Estrie Area

ABBREVIATIONS AND DEFINITIONS

Board	— National Energy Board
GC-64	— Certificate of Public Convenience and Necessity No. GC-64 issued 21 March 1980 authorizing facilities from St-Lazare to Boisbriand
GC-65	— Certificate of Public Convenience and Necessity No. GC-65 issued 16 May 1980 authorizing facilities from Boisbriand junction to Lévis/Lauzon
GICQ	— Gaz Inter-Cité Québec Inc.
Government	— Government of Canada
kPa	— kilopascals
MAOP	— maximum allowable operating pressure
NEB	— National Energy Board
NEB Act	— National Energy Board Act
TQM	— Trans Québec & Maritimes Pipeline Inc.
TransCanada	— TransCanada PipeLines Limited
14 July 1983 Board letter	— National Energy Board's letter to Gaz Inter-Cité Québec Inc. containing its decision on GICQ's application dated 16 May 1983 in the matter of the delivery pressure at Sabrevois
April 1980 Reasons for Decision	— "National Energy Board Reasons for Decision in the Matter of the Applications under Part III of the National Energy Board Act of TransCanada PipeLines Limited and Q & M Pipe Lines Ltd. — April 1980"



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The Application and Background

Introduction

On 2 November 1983, the National Energy Board issued Order GH-2-83 setting down for public hearing the matters of the desirability of changing, altering or varying Certificate No. GC-65 and an application by Gaz Inter-Cité Québec Inc. for a review of the Board's 14 July 1983 decision not to direct TransCanada Pipelines Limited to provide maximum allowable operating pressure (MAOP) to GICQ at Sabrevois, Québec. As the Board decided during the hearing to defer consideration of the matter relating to Certificate No. GC-65, these reasons for decision deal only with GICQ's application for review.

The Application for Review

By a submission dated 16 May 1983, GICQ requested the Board to direct TransCanada to provide MAOP at the point of interconnection of TransCanada's and GICQ's facilities at Sabrevois. The Board in a letter dated 14 July 1983 advised GICQ that it would not direct TransCanada to provide MAOP at Sabrevois. At GICQ's request, the Board elaborated on the reasons for its decision in a letter dated 26 July 1983.

On 22 August 1983, GICQ filed an application pursuant to Section 17 of the National Energy Board Act for a review of the Board's decision of 14 July 1983. The Board, upon considering GICQ's application, determined that it would be appropriate to hear submissions from other interested parties and issued Order GH-2-83 (See Appendix I), setting the matter down for public hearing.

The hearing commenced in Ottawa on 12 December 1983 and concluded on 16 December. Upon hearing the submissions of all interested parties on the question of whether the Board should review its 14 July 1983 decision, the Board decided to proceed with a review. The Board's decision on this matter, as delivered from the bench, may be found in Appendix II. Following this decision, the Board proceeded to hear the evidence and argument of all interested parties on the issues relating to GICQ'S request that the Board direct TransCanada, pursuant to subsection 59.(3) of the NEB Act, to provide MAOP at Sabrevois, Quebec.

Background

In April 1980, the Board indicated that it was prepared to issue to TransCanada, subject to the approval of

the Governor in Council, a certificate for the construction and operation of mainline facilities from Boisbriand Junction to Lévis/Lauzon as well as several laterals to serve, *inter alia*, the Estrie area. Certificate of Public Convenience and Necessity No. GC-65, authorizing those facilities, was issued to TransCanada on 16 May 1980. Certificate of Public Convenience and Necessity No. GC-64 had been previously issued to TransCanada for the construction and operation of facilities from St-Lazare to Boisbriand.

On 17 September 1981, the Board issued Order No. MO-5-81 authorizing the transfer of both Certificates GC-64 and GC-65 to Trans Québec & Maritimes Pipeline, Inc. The transfer authorized by Order No. MO-5-81 was effected on 7 January 1982.

TQM currently operates facilities from St-Lazare to Québec City, including laterals serving the Boisbriand, St-Jérôme, Joliette, Louiseville, Trois-Rivières West and Québec City West delivery points. The construction of facilities by TQM, however, has been affected by the National Energy Program Update of May 1982. In the Update, the Government of Canada announced that it would establish a "laterals fund" of \$500 million to pay for construction of laterals in the Province of Québec. The purpose of the "laterals fund" as stated in the Update (page 60) is to maintain the tradition in Canada of having laterals constructed off transmission systems, such as those planned for the Province of Québec, owned and operated by gas distributors and regulated by provinces.

On 27 October 1982, the Government and GICQ entered into an agreement in principle whereby, under certain conditions, the Government agreed to finance and GICQ agreed to construct and operate certain pipeline facilities. These facilities would serve some of the same market areas originally planned to be served by the facilities authorized by Certificate No. GC-65. On 28 February 1983, the Government and GICQ entered into a specific agreement regarding the construction of those laterals included in the agreement in principle which were to be built in 1983, namely the Sherbrooke lateral in the Estrie area, the Grand-Mère lateral, and the Bécancour lateral. The construction of these laterals by GICQ was completed in November 1983. GICQ indicated that the design of the Estrie facilities had been purchased from TQM and adopted by GICQ without modification. It was acknowledged that the design of the facilities as purchased from TQM and as used by GICQ was different

from that approved by the Board under Certificate No. GC-65. GICQ also stated that at the time of the purchase of the TQM design, it assumed that TransCanada would provide at Sabrevois a pressure sufficient to ensure deliveries of 2800 kPa at the various town border stations on GICQ's system in the Estrie area. According to GICQ, this assumption had not been discussed with TransCanada at the time of entering into the agreement with the Government.

TransCanada is currently the only shipper on the TQM system. Under existing transportation and sales arrangements, TQM transports gas on its system on behalf of TransCanada to various delivery points in the Province of Quebec. At all delivery points off the TQM system, with the exception of the Boisbriand delivery point where TransCanada sells gas directly to Gaz Métropolitain, inc., TransCanada sells gas to

TQM who immediately resells it at the same delivery point to the distributors in Quebec.

The tolls of TQM and TransCanada are set by the Board under Part IV of the NEB Act. The approved tolls charged by TQM for the transportation service it renders to TransCanada are subsequently included in TransCanada's cost of service as a component of "Transmission by Others." In this manner, TQM's tolls are an integral part of the approved tolls that TransCanada may charge its customers for sale and transportation services on its system.

The situation of the TransCanada and TQM systems can be contrasted with that of GICQ. GICQ's facilities in the Estrie area are under the jurisdiction of the Province of Québec. The tolls which may be charged by GICQ are not set by the Board and are not included in TransCanada's cost of service.

Decision

In its submission of 16 May 1983, GICQ requested the Board to direct TransCanada to provide MAOP at Sabrevois in order to ensure 2800 kPa at the ultimate delivery points on GICQ's system in the Estrie area. In its application for review of the Board's 14 July 1983 decision, GICQ reiterated its request to have the Board direct TransCanada, pursuant to section 59.(3) of the NEB Act, to provide at Sabrevois a pressure sufficient to allow GICQ to deliver natural gas at a pressure of 2760 kPa at all sales points located along the Sherbrooke lateral. Appendix III shows the facilities which GICQ constructed in 1983 to serve the Estrie area, the facilities planned to be constructed by GICQ in 1985, and the Estrie facilities which were authorized by Certificate GC-65.

The Board notes that the ultimate delivery point over which it has jurisdiction and control is the outlet side of TransCanada's Sabrevois sales meter station. Under the present circumstances, the Sherbrooke lateral and the "delivery points" and "sales points" off this lateral referred to by GICQ in its submission are outside the Board's jurisdiction. The Board is not prepared to direct TransCanada to guarantee a minimum pressure at the town border stations on the GICQ system downstream of Sabrevois.

Another way of achieving the same result requested by GICQ in its application for review would be for the Board to direct TransCanada to guarantee at Sabrevois a specific minimum delivery pressure in excess of 2800 kPa at no additional cost to GICQ. Domestic deliveries of gas from the pipeline facilities of TransCanada are subject to the terms and conditions specified in TransCanada's Gas Tariff as approved by the Board. Section IX, Delivery Pressure, of TransCanada's General Terms and Conditions reads as follows:

"Seller shall deliver gas to Buyer at Seller's line pressure at the delivery point or points designated in the T-Service Contract or the gas sales contract, but the minimum pressure at each delivery point shall be not less than a gauge pressure of 2800 kilopascals; PROVIDED HOWEVER, that Buyer shall not be required, in executing a T-Service Contract or a gas sales contract into which these General Terms and Conditions are

incorporated, to agree to pressures less than the minimum contractual delivery pressure theretofore obtaining at existing delivery points."

In asking the Board to require TransCanada to guarantee a delivery pressure at Sabrevois in excess of 2800 kPa at no additional cost, GICQ is requesting a service which would be contrary to TransCanada's approved Tariff. The Board is of the view that granting GICQ's request would result in unjust discrimination and would be contrary to the provisions of section 55 of the NEB Act.

In its submission, GICQ referred to "grandfather" clauses in contracts between TransCanada and certain of its customers. GICQ argued that, since there were already existing contracts which guarantee delivery pressures higher than the minimum of 2800 kPa stipulated in TransCanada's General Terms and Conditions, TransCanada should provide the higher delivery pressure requested at Sabrevois at no additional cost to GICQ. It is the Board's view that GICQ's situation at Sabrevois cannot be considered equivalent to those contracts wherein TransCanada guarantees higher delivery pressures at certain delivery points.

The Board, in its May 1973 Decision respecting Phase II of TransCanada's first toll application, ordered the adoption of TransCanada's General Terms and Conditions which contained a provision similar to the existing Section IX, Delivery Pressure. In addition to guaranteeing all customers on the system a minimum delivery pressure of 2800 kPa, this Section of the tariff permits those transmission and distribution companies that had been receiving guarantees of higher delivery pressure under contracts entered into prior to the adoption of TransCanada's tariff, to continue to do so. This "grandfathering" aspect affects only a few of the existing 155 delivery points on TransCanada's system. According to TransCanada's testimony, additional costs associated with providing a higher delivery pressure are incurred and subsequently borne by all customers on its system at only one of these delivery points and these costs have a negligible impact on TransCanada's total cost of service.

It is the Board's view that the higher delivery pressures at Emerson, Dawn and Lisgar are necessary to effect the efficient delivery of gas to eastern Canadian

markets. This allows for the optimization of operation of the integrated TransCanada, Great Lakes and Union Gas systems and benefits all users of the system. In a similar manner, the higher delivery pressures at the interface of the TransCanada and TQM systems at St-Lazare stem from the integrated operation of these two systems which, again, benefits the system users.

It is the Board's view, however, that the question of the continuation of the "grandfathering" aspect of Section IX of TransCanada's General Terms and Conditions, as it relates to the guarantee of higher delivery pressure under existing contracts beyond the initial term of those contracts, warrants further review in the upcoming generic hearing dealing with TransCanada's tariff and tolls. It is the intention of the Board to require such a review.

The Board appreciates the situation in which GICQ currently finds itself and GICQ's concern with respect to the need for a delivery pressure at Sabrevois sufficient to allow it to make deliveries to its customers. While the Board is not prepared to require TransCanada to deliver gas at Sabrevois at a pressure in excess of 2800 kPa at no additional cost to GICQ, the Board notes that according to its Tariff, TransCanada would be obligated to deliver gas at Sabrevois at the prevailing line pressure. Evidence adduced at the hearing indicated that, due to the minimum delivery pressure of 2800 kPa to be provided to Vermont Gas Systems, Inc. downstream of Sabrevois at Philipsburg, the delivery pressure at Sabrevois would

be in excess of 2800 kPa, although less than MAOP. The Board also notes that TransCanada has indicated its willingness to enter into a pressure agreement whereby GICQ would pay for a guaranteed higher delivery pressure at Sabrevois.

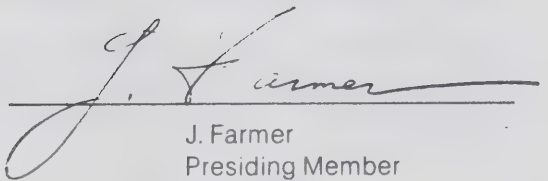
GICQ's request for higher delivery pressure was in respect of deliveries of firm and interruptible volumes. Witnesses for the Applicant stated at the hearing that GICQ would not be satisfied if TransCanada were to guarantee a pressure related to firm obligations only. GICQ indicated that it did not know whether there were existing delivery points on TransCanada's system where TransCanada's facilities are designed to serve firm and interruptible requirements. GICQ also indicated that, if in fact, TransCanada's policy was to build facilities for firm requirements only, then GICQ was asking for a service different from that provided to other customers on TransCanada's system.

At the hearing, TransCanada indicated that, for design purposes, facilities are constructed to meet firm obligations only, while interruptible volumes are delivered on a best effort basis.

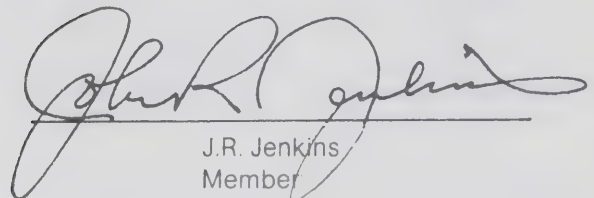
The Board finds no reason to direct TransCanada to deviate from its design policy of constructing facilities to meet firm obligations only. Accordingly, the Board is of the view that the design of future facilities required on the Philipsburg line to deliver contracted volumes at Sabrevois and other delivery points should be based on firm obligations only.

Disposition

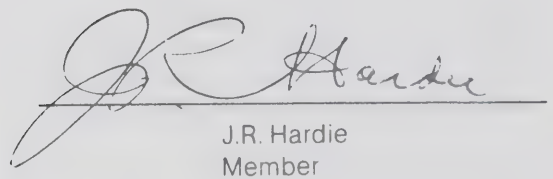
The Board has decided to confirm its decision of 14 July 1983 that it will not direct TransCanada to provide maximum allowable operating pressure at Sabrevois. The foregoing chapters constitute our Reasons for Decision and our decision on the application by Gaz Inter-Cité Québec Inc. pursuant to Section 17 of the NEB act.



J. Farmer
Presiding Member



J.R. Jenkins
Member



J.R. Hardie
Member

Appendix I

ORDER NO. GH-2-83

NATIONAL ENERGY BOARD

NOTICE OF PUBLIC HEARING

**Amendments to Gas Pipeline Certificate No.
GC-65 and
Request for Review
Sabrevois Sales Meter Station**

The National Energy Board will conduct a hearing to decide on what amendments to Certificate GC-65, held by Trans Québec & Maritimes Pipeline Inc., may be needed, if any, as a result of the agreement between the Government of Canada and Gaz Inter-Cité Québec Inc., on the financing, construction and operation of certain natural gas pipeline laterals in Quebec. The hearing will also deal with an application by Gaz Inter-Cité Québec Inc. for a review of an earlier Board decision not to order TransCanada PipeLines Limited to provide maximum operating pressure at the Sabrevois Sales Meter Station.

The hearing will commence at 9:30 a.m. on Monday, 12 December 1983, in the Hearing Room of the National Energy Board, Trebla Building, 473 Albert Street, Ottawa, Ontario.

The hearing will be public and will be held to obtain evidence and hear the relevant views of interested parties, groups, organizations, and companies.

Any person wishing to intervene should write or telex the Secretary of the Board, as soon as possible, requesting a copy of Order GH-2-83 and the accompanying directions on procedure (available in English or French) which sets out the procedure for intervening and the locations at which copies of the application may be examined. The deadline for filing interventions with the Board is 18 November 1983.

For further information, telephone the Board's Information Services at (613) 593-6936.

Dated at Ottawa, Ontario, 3 November 1983.

G. Yorke Slader
Secretary
National Energy Board
473 Albert Street
Ottawa, Ontario
K1A 0E5
Telex No. 053 3791

ORDER NO. GH-2-83

IN THE MATTER OF the National Energy Board Act and the Regulations made thereunder; and

IN THE MATTER OF Certificate of Public Convenience and Necessity GC-65;

IN THE MATTER OF section 20(3) of the National Energy Board Act;

IN THE MATTER OF an application by Gaz Inter-Cité Québec Inc. pursuant to section 17 of the National Energy Board Act filed with the Board under File No. 1571-TI-70.

BEFORE the Board on Wednesday, 2 November 1983.

WHEREAS the Board has issued Certificate of Public Convenience and Necessity GC-65 on 16 May 1980 to TransCanada PipeLines Limited ("TransCanada") for the construction and operation of certain pipeline facilities in the Province of Quebec;

WHEREAS the Board, by Order MO-5-81 dated 17 September 1981, approved by Order in Council P.C. 1981-3473 dated 10 December 1981, authorized the transfer of Certificate GC-65 from TransCanada to Trans Québec & Maritimes Pipeline Inc. ("TQM");

WHEREAS on 27 October 1982 Gaz Inter-Cité Québec Inc. ("GICQ") and the Government of Canada entered into an agreement whereby the Government of Canada would finance and GICQ would construct and operate certain pipeline facilities to supply natural gas to some of the same markets as would have been served by certain of the facilities covered by GC-65;

WHEREAS, in light of the agreement between GICQ and the Government of Canada, it appears that Certificate GC-65 may not contain an accurate description of the facilities to be constructed and operated by TQM and, as a result, it may be desirable to change, alter or vary the Certificate;

WHEREAS by submission dated 16 May 1983, GICQ requested the Board to direct TransCanada to provide maximum allowable operating pressure at the point of interconnection between TransCanada's facilities and GICQ's facilities known as the Sabrevois meter station;

WHEREAS GICQ submits that the pressure to be supplied at the said point of interconnection was a matter specified in the terms and conditions upon which Certificate GC-65 was issued;

WHEREAS the Board, by letter dated 14 July 1983 and further confirmed by letter dated 26 July 1983, advised GICQ that it would not order TransCanada to provide maximum allowable operating pressure at the Sabre-vois meter station;

WHEREAS by submission dated 22 August 1983, GICQ filed an application pursuant to section 17 of the National Energy Board Act for a review of the Board's decision of 14 July 1983;

WHEREAS the Board intends to consider the said GICQ application at a public hearing;

WHEREAS it appears desirable to deal with the matter of the possible variation of Certificate GC-65 in the same proceeding.

IT IS HEREBY ORDERED THAT:

- I. Pursuant to section 20(3) of the National Energy Board Act, the Board shall hold a public hearing in the Hearing Room of the National Energy Board, 473 Albert Street, in the City of Ottawa, in the Province of Ontario, commencing on Monday, 12 December 1983, at 9:30 a.m. local time on the following matters:
 - (a) to hear submissions on the desirability of changing, altering or varying Certificate GC-65 and, if necessary, on what changes should be made to that Certificate; and
 - (b) (i) to hear submissions and decide on whether the Board should proceed with a review under section 17 pursuant to the application filed by GICQ, dated 22 August 1983and
 - (ii) if the decision on item (b) (i) is in the affirmative, immediately to hear submissions on the application by GICQ for a review.
2. These proceedings will be conducted in either of the two official languages and simultaneous interpretation will be provided should a party to the proceedings request such facilities in his intervention.
3. The Board will arrange for Notice of these proceedings in the form attached as Appendix I to be published in the appropriate newspapers.

4. The Board will issue Directions on Procedure for the guidance of interested parties.
 5. Any person wishing to intervene in these proceedings shall file with the Secretary of the Board on or before 18 November 1983, thirty (30) copies of a written statement, in either of the two official languages, containing such party's submissions with respect to the matters outlined in paragraph I above. Intervenor's shall also, as soon as possible, serve one (1) copy on their intervention on each other party who has intervened pursuant to this paragraph. A list of intervenors will be distributed to all intervenors by the Board on or about the 21st day of November, 1983.
 6. GICQ shall send forthwith a copy of its application filed pursuant to section 17 together with the 16 May 1983 submission to all parties of record in the hearing (GH-4-79) which led to the issuance of Certificate of Public Convenience and Necessity GC-65, to all parties who have intervened in the hearing held pursuant to RH-4-82, and as soon as possible to all intervenors in this hearing.
 7. TQM shall send forthwith copies of letters from the Board dated 20 December 1982 and 19 September 1983 with respect to Certificate of Public Convenience and Necessity GC-65 and copies of TQM's responses thereto dated 12 January 1983 and 19 October 1983 to all parties of record in the hearing (GH-4-79) which led to the issuance of Certificate of Public Convenience and Necessity GC-65, to all parties who have intervened in the hearing held pursuant to RH-4-82, and as soon as possible to all intervenors in this hearing.
- DATED at Ottawa, on November 1983.

NATIONAL ENERGY BOARD

G. Yorke Slader,
Secretary

Appendix II

Decision Rendered from the Bench on GICQ's Application for Review (Translation)

The Board has carefully considered the arguments and submissions of all counsel on the request by GICQ that the Board review its 14 July 1983 decision with respect to the delivery pressure at Sabrevois.

Section 17(1) provides that the Board may review, rescind, change, alter or vary any decision made by it. This is a discretionary power, and in considering whether to exercise its discretion to review, the Board takes into consideration the matters set out in section 24 of the Rules of Practice and Procedure. As indicated in the past, the Board believes that the power to review should be exercised sparingly and only when it is convinced that the particular circumstances of a case so require.

In considering the application for review which is before the Board today, the Board is not convinced that a review should be granted on the basis of the grounds set forth in Rule 24. However, the Board is prepared to review its decision in the present case for the following reasons. While it is true that certain of the matters and facts alleged in argument were raised in a Part IV proceeding, namely TCPL's last toll hearing, and were before the Board for consideration when the Board dealt with TCPL's application for a Meter Station at Sabrevois and GICQ's request for additional pressure, it would appear that parties were never afforded an opportunity to address these matters in a comprehensive way. The Board believes it would be useful to have a thorough investigation of these issues in one forum and is, therefore, prepared to proceed to review its 14 July decision and to hear evidence which parties may choose to present.

